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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,381	02/11/2004	Robert G. Bridges	40168-000100	4601

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EXAMINER

DINH, TAN X

ART UNIT	PAPER NUMBER
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2627

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/21/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/777,381

Applicant(s)

BRIDGES, ROBERT G.

Examiner

TAN X. DINH

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 1-11 and 16-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-15 and 22-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1) Applicant's election without traverse of Group II (claims 12-15 and 22-25) in the reply filed on 11/13/2006 is acknowledged. Claims 1-11 and 16-21 are withdrawn from further consideration by the Examiner.

2) The I.D.S filed 5/10/2004 and 8/04/2006 have been considered by the Examiner. However, the Japan and/or foreign document(s), if they have not been written in English, are considered to the extent that could be understood from the English Abstract and the drawings.

Form PTO-1449 or PTO/SB/08 is(are) attached herein.

3) The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The following title is suggested:

METHOD FOR MIXING AND RECORDING AUDIO TRACK TO A PLURALITY OF DIFFERENT VERSIONS.

4) The drawings are objected to because:

a) Figures 3A, 3B and 3C are hand writing which is unacceptable.

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b) every circuit blocks in figures 4A and 4B must be properly labeled, for example, block 415 must be labeled as "LASER AND LENS SYSTEM", block 410 must be labeled as "INPUT/OUTPUT", block 420 must be labeled as "D/A CONVERTER", block 430 must be labeled as "AMPLIFIER", block 460 must be labeled as "DECODER", block 470 must be labeled as "SENSOR", etc.,.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended.

The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency.

Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).

If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

5) Claims 24 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "similar" (claims 24 and 25) was held to be indefinite since it was not clear what applicant intended to cover by the recitation "more similar" or "similar to". See Ex parte KRISTENSEN, 10 USPQ 2d 1701 (Bd. PA&I. 1989) and In Ex parte PAPPAS, 23 USPQ 2d 1636 (Bd. PA&I. 1992).

6) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

7) (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the

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effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8) Claims 12-14,,22 and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by ALFERNES (7,078,607).

ALFERNES discloses a storage medium having audio tracks embodied therein as claimed in claim 12, comprising:

N number of audio tracks (column 9, lines 27-40. In this case, the medium could be any of CD, CD-ROM, DVD, etc., which contains a plurality of audio tracks. See also column 1, lines 27-34 and column 6, lines 33-47);

V versions of at least one of the N audio tracks (column 1, lines 60-67. figures 6 and 7, and column 6, line 10 to column 7, line 7. In this case, the audio tracks is mixed with different tempos, frequencies or different musical instruments to creates different versions of audio tracks).

A control track for determining which of V versions is to be played (figure 6, 620. See column 6, lines 31-33. In this case, the scripts functions as control track for determining which of V versions is to be played. See also figure 7 and column 6, line 48 to column 7, line 5 for creating scripts).

As to claim 13, since the medium is CD it could contains plurality of audio tracks and song versions.

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As to claim 14, ALFERNESS show the medium is optical storage medium (column 6, lines 33-37).

As to claim 15, the trigger point for each song version is inherent in ALFERNESS's audio mixer and player since each song version can be identified and play separately.

Method claim(s) 22 is drawn to the method of using the corresponding apparatus claimed in claim 12. Therefore, method claims are rejected for the same reasons of anticipation (obviousness) as used above.

As to claim 23, since the new version of audio tracks in ALFERNESS is mixing with different tempos or music instruments, they are recognizable with the base version.

9) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10) Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over ALFERNESS (7,078,607).

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ALFERNES discloses all the subject matter as claimed in claim 24 and 25, except to specifically show that first version is more similar to the song base version, number of instruments or vocal components than second version. However, the art of editing and mixing audio tracks, the user could choose any versions with different degree of similarity to the base version or different degree of similarity with each other, therefore, to make first version is more similar to the song base version, number of instruments or vocal components than second version in ALFERNES's audio mixing and playing device as claimed is deem obvious to someone within the level of skill in the art.

11) The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant is reminded that in amending in response to a rejection of claims (if the rejection involves with any applicable arts), the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objection made. Applicant must also show how the amendments avoid such references and objections. See 37 CFR § 1.111(c).

Form PTO-892 is attached herein.

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12) Any inquiry concerning this communication or earlier communications from the examiner should be directed to TAN XUAN DINH whose telephone number is (571)272-7586. The examiner can normally be reached on MONDAY to FRIDAY from 8:00AM to 5:30PM.

The FAX phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov/>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



TAN DINH
PRIMARY EXAMINER
December 19, 2006